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January 7, 2004

Ms. Jennifer J. Johnson
Secretary
Board of Governors
of the Federal Reserve System
Office of the Secretary
20th Street and Constitution Avenue, NW
Washington, D.C. 20551

Federal Trade Commission
Office of the Secretary
Room 159-H
600 Pennsylvania Avenue, NW
Washington, D.C. 20580

Re: **Federal Reserve System
Docket No. R-1172**

**Federal Trade Commission
Project No. P044804**

**Joint interim final rules
Effective dates for the Fair and Accurate
Credit Transactions Act of 2003**

The American Bankers Association ("ABA") is pleased to submit our comments on the Federal Reserve Board's and Federal Trade Commission's ("Agencies") joint interim final rules published in the December 15, 2003 *Federal Register*. Those joint interim final rules establish December 31, 2003 as the effective date for provisions of the Fair and Accurate Credit Transactions Act of 2003 ("Act") that determine the relationship between the Fair Credit Reporting Act ("FCRA") and state laws and provisions that authorize rulemakings or other implementing action by the various agencies.

The ABA brings together all elements of the banking community to represent the interests of this rapidly changing industry. Its membership – which includes community, regional, and money center banks and holding companies, as well as savings associations, trust companies, and savings banks – makes ABA the largest banking trade association in the country.

ABA appreciates the Agencies' quick action in adopting joint final interim rules that establish December 31, 2003 as the effective date for

the federal preemption provisions. We agree that it would be impracticable to provide notice of the proposed rule and an opportunity for public comment. Congress clearly intended for the new federal preemption provisions of the Act to apply before the existing federal preemption provisions expired on January 1, 2004. However, given that the bill was only signed into law on December 4, 2003, there is no time for public comment. Moreover, as the Agencies note in the supplementary information to the rules:

Delaying final action on these provisions of the FACT Act would undermine the purpose of these provisions and is likely to provoke substantial confusion about the applicability of some state laws in areas that Congress has determined should be governed by uniform nationwide standards.

The federal preemption provisions of the Act were core pieces of the Act, and indeed, the major impetus for the legislation. Congress recognized that making permanent the existing federal preemption and expanding federal preemption to new provisions of FCRA is critical to ensuring the continued efficient operation of the nation's credit and credit reporting system. For a consumer credit system that allows consumer to access all types of credit across all states and that relies on competition among institutions from all states, a single uniform law not only makes sense, but also is critical. Uniform rules, rather than a patchwork, of confusing, varied, inconsistent, or redundant rules, avoid unnecessary and wasteful compliance efforts, as well as costs, and enhance the availability of credit without harming consumers.

ABA appreciates the opportunity to comment on this important matter and strongly recommend that the Agencies retain the joint interim final rules.

Sincerely,

Nessa Eileen Feddis